

**UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA**
Alexandria Division

In re:

JUAN C. SALMERON,

Debtor.

Case No. 10-16833-RGM
(Chapter 13)

MEMORANDUM OPINION AND ORDER

THIS CASE is before the court on the debtor's request for a deferment of the credit counseling requirement. Each debtor is required to complete a credit counseling course prior to filing a petition in bankruptcy. The court can extend the period of time to not more than 30 days after the filing date if it is satisfied as to the existence of exigent circumstances. 11 U.S.C. §109(h)(3).

The debtor filed a prior petition in bankruptcy under chapter 13 on June 18, 2010, Case No. 10-15092-SSM. He requested an extension of time within which to obtain credit counseling in that case. The motion was granted and an extension of time was granted through July 19, 2010. The case was dismissed for failure to timely file schedules and a chapter 13 plan.

The debtor filed this case on August 13, 2010. He requested an extension of time within which to obtain the credit counseling and gave the same reason as he gave in the first case. He stated in both cases that he had "to file bankruptcy at the last minute to stop a foreclosure on my house." This explanation is not satisfactory to the court. The court notes that under Virginia law, notice of a foreclosure sale must be given in advance of the sale and that a debtor has an opportunity during that period of time to take appropriate action to prevent the foreclosure sale. One such action is to file a petition in bankruptcy. The debtor did this in filing his first petition in

bankruptcy. He was given an extension of time within which to obtain credit counseling. When the foreclosure was apparently re-noticed, he filed the present petition asserting the same reason for an extension.

Given the knowledge of the debtor of the proper procedure, the opportunity to obtain the credit counseling in the first case and within the period after the notice of the second foreclosure was given, and the repetitious nature of the conduct, the excuse the second time is not satisfactory. It is,

ORDERED:

1. The motion for an extension of time to obtain credit counseling is denied.
2. The debtor shall pay the remaining filing fee of \$184.00 within 14 days of the entry of this order.
3. This case is dismissed.

DONE at Alexandria, Virginia, this 17th day of August, 2010.

/s/ Robert G.Mayer
Robert G. Mayer
United States Bankruptcy Judge

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All creditors and parties in interest

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